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6 *Attorney for Plaintiff,*
7 MICHAEL GRECCO PRODUCTIONS, INC.

8

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF ILLINOIS**

11 MICHAEL GRECCO
12 PRODUCTIONS, INC. d/b/a
13 MICHAEL GRECCO
14 PHOTOGRAPHY, INC.,

15 Plaintiff,

16 v.

17 POSSESSIONISTA MEDIA, LLC;
18 DANA WEISS; and DOES 1-10,
19 inclusive,

20 Defendants.

21 Case No. _____

22 **COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

23 **DEMAND FOR JURY TRIAL**

24 Plaintiff, Michael Grecco Productions, Inc. alleges as follows:

25 **JURISDICTION AND VENUE**

26 1. This is a civil action seeking damages and injunction relief for
27 copyright infringement under the Copyright Act of the United States, 17 U.S.C. §
28 101 *et seq.*

2. This Court has subject matter jurisdiction over Plaintiff's claims for
copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

3. This Court has personal jurisdiction over Defendants because Defendants conducts business and resides within the State of Illinois Defendants' acts of infringement complained of herein occurred in the State of Illinois, and Defendants caused injury to Plaintiff within the State of Illinois.

4. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred. Alternatively, venue is also proper pursuant to 28 U.S.C. § 1400(b) because the Defendants reside and have a regular and established place of business in this judicial district.

PARTIES

5. Plaintiff Michael Grecco Productions, Inc. (“MGP” or “Plaintiff”) is a professional media and photography company incorporated in the state of California run by renown celebrity photographer Michael Grecco (“Grecco”).

6. Defendant Possessionista Media, LLC (“Defendant Possessionista”) is an Illinois limited liability company with a principal place of business at 735 Carriage Way, Deerfield, IL 60015.

7. Defendant Dana Weiss (“Defendant Weiss”) is an individual residing at 735 Carriage Way, Deerfield, IL 60015.

8 Plaintiff is unaware of the true names and capacities of the

1 Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, sue
2 such Defendants under such fictitious names. Plaintiff is informed and believes
3 and on that basis alleges that such fictitiously named Defendants are responsible in
4 some manner for the occurrences herein alleged, and that Plaintiff's damages as
5 herein alleged were proximately caused by the conduct of said Defendants.
6 Plaintiff will seek to amend the complaint when the names and capacities of such
7 fictitiously named Defendants are ascertained. As alleged herein, "Defendants"
8 shall mean all named Defendants and all fictitiously named Defendants.
9

10 9. For the purposes of this Complaint, unless otherwise indicated,
11 "Defendant" includes all agents, employees, officers, members, directors, heirs,
12 successors, assigns, principals, trustees, sureties, subrogates, representatives and
13 insurers of Defendants named in this caption.
14

15 **FACTUAL ALLEGATIONS**

16 10. MGP's principle, Michael Grecco, is an award-winning commercial
17 photographer and film director noted for his iconic celebrity portraits, innovative
18 magazine covers, editorial images and advertising spreads for such companies such
19 as NBC/Universal, GE, Pfizer, HBO, Kodak, ABC, IBM, Yahoo!, ESPN, Wired,
20 Time, Entertainment Weekly, Esquire, Premier, and MAXIM. His work is
21 regularly featured in prestigious galleries around the world.
22

23 11. A portfolio of Grecco's work, is available for viewing by general
24 public through the website <http://www.michaelgrecco.com/>.
25

1 12. Due to the high quality and limited availability of Grecco's works,
2 MGP routinely licenses and/or sells individual photographs to media outlets for
3 thousands of dollars.
4

5 13. MGP is the sole author and exclusive rights holder to an original
6 photograph of Bachelorette contestant Ali Fedotowsky (the "Image"). A true and
7 correct copy of the Image is attached hereto as Exhibit A.
8

9 14. MGP registered the Image with the United States Copyright Office
10 under registration number VA 1-431-699.
11

12 15. Defendant Weiss, through Defendant Possessionista, is the owner and
13 operator of the highly successful fashion blog and website
14 www.possessionista.com ("Defendants' Website"), where Defendant Weiss directs
15 visitors.
16

17 16. Defendants' Website consists of content created exclusively by
18 Defendant Weiss promoting clothing and fashion accessories worn on popular
19 television shows.
20

21 17. On information and belief, Defendant's Website has over 160,000
22 unique visitors and close to a million page views per month. Due to the large
23 amount of traffic on Defendants' Website, on information and belief, Defendants
24 form commercial partnerships with select brands and advertisers to commercially
25 promote their services and products through sponsored content on Defendants'
26 Website.
27

1 18. On information and belief, Defendants also generate revenue
2 Defendants' Website through the numerous paid banner advertisements and
3 hyperlinks featured on Defendants' Website.
4

5 19. On or about November 2016, Grecco discovered that Defendants were
6 using the Image in a blog post authored by Defendant Weiss advertising a
7 "Shoshanna Psychadelic Coverup" being sold through the retailer Saks Fifth
8 Avenue. Attached hereto as Exhibit B is a true and correct copy of the blog post on
9 Defendants' Website featuring the Image; *see also*
10 [http://www.possessionista.com/2010/06/bachelorette-fashion-ali-fedotowsky-](http://www.possessionista.com/2010/06/bachelorette-fashion-ali-fedotowsky-floral-print-colored-cover-up-from-the-abc-promos.html)
11 [floral-print-colored-cover-up-from-the-abc-promos.html](http://www.possessionista.com/2010/06/bachelorette-fashion-ali-fedotowsky-floral-print-colored-cover-up-from-the-abc-promos.html).
12

14 20. After a brief investigation, MGP concluded that Defendants had never
15 purchased a license for the Image, nor did MGP ever give Defendants permission
16 to use the Image on Defendants' Website.
17

18 21. On or about December 27, 2016, Plaintiff's counsel sent a cease and
19 desist letter to Defendants requesting, *inter alia*, that Defendants remove the Image
20 from Defendants' Website.
21

22 22. On or about January 16, 2017, Plaintiff's counsel sent a second letter
23 again requesting that Defendants remove the Image.
24

25 23. On or about March 6, 2017, Plaintiff's counsel sent additional
26 correspondence to Defendants.
27

28 24. Additionally, Plaintiff's counsel attempted to contact Defendants by

1 both telephone and email to discuss removal of the Image.

2 25. Despite Plaintiff's counsels repeated correspondence by both
3 traditional mail and email, Defendants did not remove the Image.
4

5 26. On information and belief, Defendant's use of the Image was willful
6 because it knew that it did not have a license to use the Image and refused to
7 remove it despite repeated contact from Plaintiff's counsel.
8

9 27. As of the date of this Complaint, the Image is still displayed on
10 Defendants' Website, and an unauthorized copy resides on the server of
11 Defendants' Website. A true and correct timestamped copy of the page on
12 Defendants' Website is attached hereto as Exhibit C; *see also*
13 [http://www.possessionista.com/2010/06/bachelorette-fashion-ali-fedotowsky-](http://www.possessionista.com/2010/06/bachelorette-fashion-ali-fedotowsky-floral-print-colored-cover-up-from-the-abc-promos.html)
14 <http://www.possessionista.com/wp-content/uploads/2012/09/ali-fe101.jpg>.
15 and
16
17

18 **FIRST CAUSE OF ACTION**
19 **COPYRIGHT INFRINGEMENT**
20 **17 U.S.C. § 101 *et seq.***

21 28. Plaintiff incorporates by reference all of the above paragraphs of this
22 Complaint as though fully stated herein.

23 29. Plaintiff did not consent to, authorize, permit, or allow in any manner
24 the said use of Plaintiff's unique and original Image.
25

26 30. Plaintiff is informed and believes and thereon alleges that the
27 Defendants willfully infringed upon Plaintiff's copyrighted Image in violation of
28

1 Title 17 of the U.S. Code, because, *inter alia*, Defendants knew that they did not
2 have a legitimate license for the Image.
3

4 31. As a result of Defendants' violations of Title 17 of the U.S. Code,
5 Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or
6 statutory damages in an amount up to \$150,000.00 per infringement pursuant to 17
7 U.S.C. § 504(c).
8

9 32. As a result of the Defendants' violations of Title 17 of the U.S. Code,
10 the court in its discretion may allow the recovery of full costs as well as reasonable
11 attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendants.
12

13 33. Plaintiff is also entitled to injunctive relief to prevent or restrain
14 infringement of his copyright pursuant to 17 U.S.C. § 502.
15

PRAYER FOR RELIEF

16 **WHEREFORE**, Plaintiff prays for judgment against Defendants and each of them
17 as follows:
18

- 19 • For statutory damages against each Defendant in an amount up to
20 \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c);
21
- 22 • For general and special damages against each Defendant according to proof
23 together with interest thereon at the maximum legal rate;
24
- 25 • For costs of litigation and reasonable attorney's fees against each Defendant
26 pursuant to 17 U.S.C. § 505;
27
- 28 • For an injunction preventing each Defendant from further infringement of

all copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502; and

- For any other relief the Court deems just and proper.

Dated: February 16, 2018

Respectfully submitted,

/s/ Mathew K. Higbee
Mathew K. Higbee, Esq.
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Counsel for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, Michael Grecco Productions, Inc. hereby demands a trial by jury in the above matter.

Dated: February 16, 2018

Respectfully submitted,

/s/ Mathew K. Higbee
Mathew K. Higbee, Esq.
Ill. Bar No. 6319929
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Counsel for Plaintiff

Exhibit “A”



Exhibit “B”

BACHELORETTE FASHION – ALI FEDOTOWSKY FLORAL PRINT COLORED COVER UP FROM THE ABC PROMOS

[Like 0](#)

Hi Dana,

Look, our we... I think we have the same taste in fashion and tv shows (es... by the... bachelorette)! I have been searching for this bathing suit cover-up that Ali is wearing in the beach scene ever since I saw this preview, and I finally found a decent picture of it that I attached to this email. You know where I can find this, or something similar? Thanks!

Megan

Anyone who knows me, knows I can't remember a date to save my life.

I don't remember birthdays. Or doctor's appointments.

Or my anniversary.

But, sadly, I never would have thought I'd forget that the Bachelorette was on. But I did. At 8:46 last night, I checked [twitter](#) to find a stream of worried followers wondering where I was.

Because I thought yesterday was Sunday.

One thing I didn't forget was this adorable flowered coverup that Ali wore during the calendar photoshoot last night.

So I found the coverup.

Now I just need to work on remembering everything else.

Maybe I should buy one of those Bachelor calendars.

Maybe not.



Shoshanna Psychedelic Coverup

\$192.50
SaksCATEGORIES: [ALI FEDOTOWSKY](#), [BACHELORETTE](#)

JUNE 1, 2010 BY DANA WEISS



← THE BACHELORETTE FASHION – ALI FEDOTOWSKY STYLE (INCLUDING ALI'S BLACK ZIP SHIRT DRESS)

DENIM DIAPERS – BECAUSE YOUR ADDICTION TO PREMIUM JEANS SHOULD START AT BIRTH →

ONE THOUGHT ON "BACHELORETTE FASHION – ALI FEDOTOWSKY FLORAL PRINT COLORED COVER UP FROM THE ABC PROMOS"



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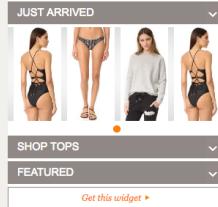
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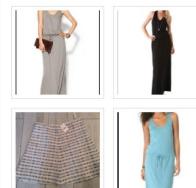
The Bachelor Recap: WTF is Andi doing here (and where did she get her shoes?)

The Bachelor Recaps: Hometowns

The Bachelor Recap: Cross your legs, I can see your Bimini

The Bachelor: Nick, Lorna, Zika in St. Thomas

SHOP MY CLOSET



Shop more of my closet on Poshmark

Does anyone know where you can find the other coverup she wore on this episode? On the Vegas date with Jesse? Thanks so much!

LEAVE A REPLY

Your email address will not be published.

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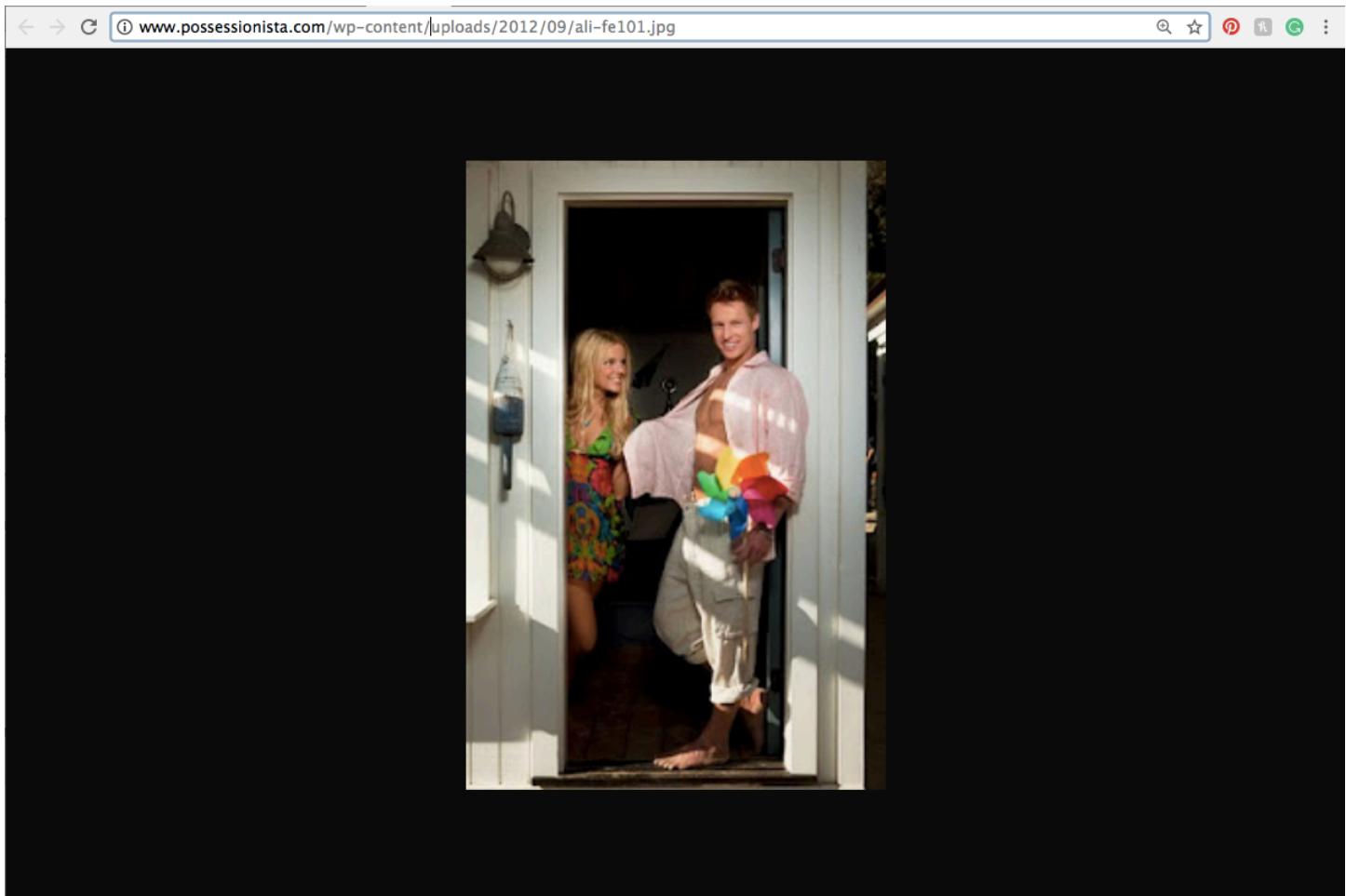


Exhibit “C”

bachelorette fashion - Ali Fed X

www.possessionista.com/2010/06/bachelorette-fashion-ali-fedotowsky-floral-print-colored-cover-up-from-the-abc-promos

Thursday, February 15, 2018

View as Analog

✓ View as Digital

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Possessionista™
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WHO IS POSSESSIONISTA SHOP AS SEEN IN... WORK WITH ME DISCLOSURE

BACHELORETTE FASHION – ALI FEDOTOWSKY FLORAL PRINT COLORED COVER UP FROM THE ABC PROMOS



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